

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN**

RICHARD PRATT and LARRY JONES,  
individually and on behalf of all others  
similarly situated,

Plaintiffs,

v.

KSE SPORTSMAN MEDIA, INC.

Defendant.

Case No. 21-cv-11404-TLL-PTM

**JOINT RESPONSE TO ECF NO. 72**

Plaintiffs Richard Pratt and Larry Jones (collectively, “Plaintiffs”) and Defendant KSE Sportsman Media, Inc. (“KSE,” together with Plaintiffs, the “Parties”), by and through their respective counsel of record, hereby submit this joint response to the Court’s Order Directing Supplemental Briefing (ECF No. 72).

The Parties inform the Court that they have reached a mediated resolution to this matter, on confidential terms proposed by the Parties’ mediator, the Honorable James F. Holderman (Ret.), formerly the Chief Judge of the Northern District of Illinois who is presently with JAMS.

The Parties further note that no class has been certified in this matter and the Parties’ mediated resolution does not purport to release any claims of any putative class members. Thus, the Parties filed a Stipulation of Dismissal (ECF No. 71) pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii). *See Logue v. Nissan N. Am., Inc.*, 2008

WL 2987184, at \*3 (W.D. Tenn. July 30, 2008) (“Rule 23(e) does not block the operation of Rule 41(a)(1) where class certification has not taken place.”); *Adams v. USAA Casualty Ins. Co.*, 863 F.3d 1069, 1080 (8th Cir. 2017) (holding in a putative class action that prior to class certification “Rule 41(a)(1) cases require no judicial approval or review as a prerequisite to dismissal; in fact, the dismissal is effective upon filing, with no court action required. The reason for dismissal is irrelevant under Rule 41(a)(1).”); Fed. R. Civ. P. 23 Advisory Committee Notes to 2003 Amendment (“Rule 23(e)(1)(A) resolves the ambiguity in former Rule 23(e)’s reference to dismissal or compromise of ‘a class action.’ ... The new rule requires approval only if the claims, issues, or defenses of a certified class are resolved by settlement, voluntary dismissal, or compromise.”) (emphasis added); *Homesite Ins. Co. v. Robards*, 2014 WL 359823, at \*2 (E.D. Tenn. Feb. 3, 2014) (“‘A voluntary dismissal with prejudice operates as a final adjudication on the merits’ and ‘[i]n such a case, the plaintiff’s stipulation is the legally operative act of dismissal and there is nothing left for the court to do.’ ... In fact, a Rule 41(a)(1)(A)(ii) stipulation of dismissal ‘terminate[s] the district court’s jurisdiction ... .’”) (citing *Warfield v. AlliedSignal TBS Holdings, Inc.*, 267 F.3d 538, 541-42 (6th Cir. 2001) and *Hinsdale v. Farmers Nat’l Bank & Trust Co.*, 823 F.2d 993, 995-96 (6th Cir. 1987)).

Dated: April 10, 2023

*/s/ E. Powell Miller*

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**CERTIFICATE OF SERVICE**

I hereby certify that on April 10, 2023, I electronically filed the foregoing document(s) using the Court's electronic filing system, which will notify all counsel of record authorized to receive such filings.

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